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Plaintiffs' Counsel

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MITRA ERAMI, MARIA  
MCGLYNN, BRITTANY SANCHEZ,  
individually and on behalf of other  
members of the general public similarly  
situated,

Plaintiffs,

vs.

JPMORGAN CHASE BANK, National  
Association,

Defendant.

Case No.: 2:15-cv-07728-PSG-PLA

**SECOND AMENDED  
COMPLAINT**

**[CLASS ACTION]**

1. Labor Code §§ 510, 1194
2. B&P § 17200 - Overtime
3. B&P § 17200 – Meal and Rest  
Breaks
4. B&P 17200 – Injunction/Dec. Relief
5. Labor Code § 203
6. Labor Code § 226, 1174, 1174.5
7. Labor Code § 2699 et seq.

**JURY TRIAL DEMANDED**

**GENERAL ALLEGATIONS**

1  
2 1. Plaintiff Mitra Erami was an Assistant Branch Manager for defendant  
3 JPMorgan Chase Bank, National Association (“Defendant”) in Alameda County,  
4 California, within the last three years of the filing of the original complaint in this  
5 action.

6 2. Plaintiff Maria McGlynn was an Assistant Branch Manager for  
7 Defendant in San Diego County, California, within the last three years of the  
8 filing of the original complaint in this action and within a year from the filing of  
9 this Second Amended Complaint.

10 3. Plaintiff Brittany Sanchez was an Assistant Branch Manager for  
11 Defendant in Santa Barbara County and Ventura County, California, within the  
12 last three years of the filing of the original complaint in this action and within a  
13 year of the filing of this Second Amended Complaint.

14 4. Defendant Chase Bank is a wholly owned subsidiary of JPMorgan  
15 Chase &Co. Defendant is a bank that owns and operates retail banks in this  
16 judicial district and in the state of California. Defendant has employees with the  
17 title “Assistant Branch Manager.”

18 5. Venue is proper in the Central District of California as at least some  
19 of the acts complained of herein occurred in the Central District of California as  
20 Defendant owns and operates banks in the Central District of California. Venue  
21 was established in this judicial district as a result of a motion to transfer due to a  
22 related case then pending in this judicial district.

23 6. At all times herein mentioned, Plaintiffs and the class identified  
24 herein worked as employees for Defendant in salaried positions in Defendant’s  
25 branch and retail locations under the business name “Chase.” At all times herein  
26 mentioned, Plaintiffs and the class have been, and continue to be, domiciled in the  
27 state of California.

28 7. At all times herein mentioned Defendant is a business entity licensed

1 to do business and actually doing business in the Central District of California.  
 2 Defendant owns and operates an industry, business and establishment in a number  
 3 of separate geographic locations within the State of California, including within  
 4 the Central District of California, for the purpose of selling banking services and  
 5 products. As such, and based upon all the facts and circumstances incident to  
 6 Defendant's business in California, Defendant is subject to California Labor Code  
 7 §§ 1194 *et seq.*, California Business and Professions Code § 17200 *et seq.*, (Unfair  
 8 Practices Act) and the applicable Industrial Welfare Commission Wage Orders.

9 8. Plaintiffs do not know the true names or capacities, whether  
 10 individual, partner or corporate, of other possible responsible parties and Plaintiffs  
 11 pray leave to amend this complaint when the true names and capacities are known.  
 12 Each of the other potentially responsible parties were responsible in some way for  
 13 the matters alleged herein and proximately caused Plaintiffs and members of the  
 14 class to be subject to the illegal employment practices, wrongs and injuries  
 15 complained of herein.

### 16 **FACTUAL ALLEGATIONS**

17 9. Pursuant to California Labor Code §§ 218, 218.6, and 1194, Plaintiffs  
 18 may bring a civil action for overtime wages directly against the employer without  
 19 first filing a claim with the California Division of Labor Standards Enforcement  
 20 and may recover such wages, together with interest thereon, penalties, attorney  
 21 fees and costs.

22 10. Plaintiffs and all members of the class identified herein were  
 23 regularly scheduled as a matter of uniform company policy to work and in fact  
 24 worked as salaried bank employees in excess of eight hours per workday and/or in  
 25 excess of forty hours per workweek without receiving straight time or overtime  
 26 compensation for such overtime hours worked in violation of California Labor  
 27 Code §§ 510, 1194 and California Industrial Welfare Commission Wage Order 4-  
 28 2001. Defendant has failed to meet the requirements for establishing the

1 exemption because all class members (a) regularly spent more than 50% of their  
 2 time performing nonexempt work, (b) did not customarily and regularly exercise  
 3 discretion and independent judgment on matters of significance, (c) did not have  
 4 the authority to hire or fire or make meaningful recommendations regarding same,  
 5 (d) did not customarily and regularly supervise at least two employees or the  
 6 equivalent, (e) did not perform work directly related to the management policies  
 7 or the general business operations of Defendant or Defendant's customers, (f) did  
 8 perform nonexempt production and/or sales work a majority of their time (i.e., in  
 9 excess of 50%) consistent with Defendant's realistic expectations, (g) did not  
 10 customarily and regularly spend more than 50% of their time away from the  
 11 Defendant's places of business selling or obtaining orders or contracts, and (h) did  
 12 not earn more than 50% of their compensation in a bona fide commission plan.  
 13 Thus, Plaintiffs and the class members were not exempt from the overtime  
 14 requirements of California law for these reasons.

### 15 **CLASS ALLEGATIONS**

16 11. This complaint is brought by Plaintiffs pursuant to Federal Rule of  
 17 Civil Procedure 23 and California Code of Civil Procedure § 382 on behalf of a  
 18 class. All claims alleged herein arise under California law for which Plaintiffs  
 19 seek relief authorized under California law. The class is comprised of, and  
 20 defined as:

21 All current and former California based employees of  
 22 JPMorgan Chase Bank, National Association, with the  
 23 title "Assistant Branch Manager" who worked at any  
 time from February 25, 2011 up to the time of trial.

24 12. The members of the classes are so numerous that joinder of all  
 25 members is impracticable. The exact number of the members of the classes can  
 26 be determined by reviewing Defendant's records.

27 13. Plaintiffs will fairly and adequately protect the interests of the class  
 28 and have retained counsel that is experienced and competent in class action and

1 employment litigation. Plaintiff has no interests that are contrary to, or in conflict  
2 with, members of the class.

3 14. A class action suit, such as the instant one, is superior to other  
4 available means for fair and efficient adjudication of this lawsuit. The damages  
5 suffered by individual members of the class may be relatively small when  
6 compared to the expense and burden of litigation, making it virtually impossible  
7 for members of the class to individually seek redress for the wrongs done to them.

8 15. A class action is, therefore, superior to other available methods for  
9 the fair and efficient adjudication of the controversy. Absent these actions, the  
10 members of the class likely will not obtain redress of their injuries and Defendant  
11 will retain the proceeds of its violations of California law.

12 16. Even if any member of the class could afford individual litigation  
13 against Defendant, it would be unduly burdensome to the judicial system.  
14 Concentrating this litigation in one forum will promote judicial economy and  
15 parity among the claims of individual members of the class and provide for  
16 judicial consistency.

17 17. There is a well-defined community of interest in the questions of law  
18 and fact affecting the Class as a whole. Questions of law and fact common to  
19 each of the class predominate over any questions affecting solely individual  
20 members of the action. Among the common questions of law and fact are:

21 a. Whether the class has been properly classified as exempt by  
22 Defendant from overtime compensation;

23 b. Whether the class is expected to regularly work hours in excess  
24 of forty per week and/or in excess of eight hours per day;

25 c. How the class is compensated; and,

26 d. Whether the class has sustained damages and, if so, what the  
27 proper measure of damages is.  
28

**FIRST CAUSE OF ACTION**

**(Labor Code §§ 510, 1194)**

18. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

19. California Wage Order 4-2001, 8 C.C.R. § 11040, and Labor Code § 510 state that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week and/or 8 per day.

20. Class members regularly work more than 40 hours per week and/or 8 hours per day but are not paid overtime.

21. Class members do not meet any of the tests for exempt status under the California Wage Orders and/or the California Labor Code.

22. Plaintiffs and the class seek their unpaid overtime wages including interest thereon and reasonable attorneys' fees and costs pursuant to Labor Code § 1194.

**SECOND CAUSE OF ACTION**

**(Bus. & Prof. Code § 17203 – Overtime)**

23. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

24. Defendant has committed an act of unfair competition under California Business & Professions Code § 17200 *et seq.* by not paying the required state law overtime pay to the members of the class.

25. Pursuant to Bus. & Prof. Code § 17203, Plaintiffs request an order requiring Defendant to make restitution of all overtime wages due to the class.

**THIRD CAUSE OF ACTION**

**(Bus. & Prof. Code § 17203 – Meal and Rest Breaks)**

26. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

27. In violation of Labor Code § 512 and IWC Wage Order 4-2001, Defendant failed to provide and document meal and rest period breaks for the class in the number, length and manner as required. At no time have the Plaintiffs or the class entered into any written agreement with Defendant expressly or impliedly waiving their right to their meal and rest breaks. Plaintiffs and the class have been injured by Defendant's failure to comply with Labor Code § 512 and IWC Wage Order 4-2001 and are thus entitled to the wages set forth in Labor Code § 226.7 and IWC Wage Order 4-2001 §§ 11 and 12.

28. Pursuant to Bus. & Prof. Code § 17203, Plaintiffs request Defendant make restitution of all wages due to the class under this Third Cause of Action.

#### **FOURTH CAUSE OF ACTION**

##### **(Bus. & Prof. Code § 17203 – Injunction and Declaratory Relief)**

29. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

30. Plaintiffs, and all persons similarly situated, are further entitled to and do seek a both a declaration that the above-described business practices are unfair, unlawful and/or fraudulent and injunctive relief restraining Defendant from engaging in any of such business practices in the future. Such misconduct by Defendant, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to all members of the class in that the Defendant will continue to violate California law, represented by labor statutes and IWC Wage Orders, unless specifically ordered to comply with same. This expectation of future violations will require current and future employees to repeatedly and continuously seek legal redress in order to gain compensation to which they are entitled under California law. Plaintiffs have no other adequate remedy at law to insure future compliance with the California labor laws and wage orders alleged to have been violated herein.



**FIFTH CAUSE OF ACTION**

**(Labor Code § 203)**

31. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

32. Plaintiffs and the class were discharged by Defendant or voluntarily quit, and did not have a written contract for employment. The Defendant, in violation of California Labor Code §§ 201 and 202 *et seq.* had a consistent and uniform policy, practice and procedure of willfully failing to pay the earned and unpaid wages of all such former employees. The Defendant has willfully failed to pay the earned and unpaid wages of such individuals, including, but not limited to, straight time, overtime, vacation time, meal and rest wages, and other wages earned and remaining uncompensated according to amendment or proof. Plaintiffs and the class did not secret or absent themselves from Defendant nor refuse to accept the earned and unpaid wages from Defendant. Accordingly, Defendant is liable for waiting time penalties for the unpaid wages pursuant to California Labor Code § 203.

**SIXTH CAUSE OF ACTION**

**(Labor Code §§ 226, 1174, and 1174.5)**

33. Plaintiffs incorporate the allegations contained in the previous paragraphs of this Complaint as if fully set forth herein.

34. Defendant, as a matter of corporate policy did not maintain or provide accurate itemized statements in violation of Labor Code §§ 226 and 1174.

35. For instance, Defendant did not state or did not accurately state, *inter alia*, the total hours worked, hours worked daily, or the actual hourly rate of Plaintiffs and other Assistant Branch Managers in their pay statements. Defendant's failure to maintain accurate itemized statements was willful, knowing, intentional, and the result of Defendant's custom, habit, pattern and practice. Defendant's failure to maintain accurate itemized statements was not the



1 result of isolated, sporadic or unintentional behavior. Due to Defendant's failure  
 2 to comply with the requirements of Labor Code §§ 226 and 1174, Plaintiffs and  
 3 other Assistant Branch Managers were injured thereby.

4 36. Such a pattern and practice as alleged herein is unlawful and creates  
 5 an entitlement to recovery by Plaintiffs and the class identified herein for all  
 6 damages and penalties pursuant to Labor Code §§ 226 and 1174.5, including  
 7 interest thereon, penalties, attorneys' fees and costs.

### 8 **SEVENTH CAUSE OF ACTION**

#### 9 **(Labor Code § 2699 et seq.)**

10 37. Plaintiffs incorporate the allegations contained in the previous  
 11 paragraphs of this Complaint as if fully set forth herein.

12 38. As alleged above, Defendant failed to comply with the California  
 13 Labor Code. As such, Plaintiffs are "aggrieved employees" as defined in Labor  
 14 Code § 2699(a). Pursuant to Labor Code § 2699, the Labor Code Private  
 15 Attorneys General Act of 2004, Plaintiffs bring this action on behalf of themselves  
 16 and other current and former Assistant Branch Managers against JP Morgan  
 17 Chase Bank, National Association and seeks recovery of applicable civil penalties  
 18 as follows:

19 a. where civil penalties are specifically provided in the Labor Code for  
 20 each of the violations alleged herein, Plaintiffs seek recovery of such  
 21 penalties;

22 b. where civil penalties are not established in the Labor Code for each  
 23 of the violations alleged herein, Plaintiffs seek recovery of the penalties  
 24 established in § 2699(e) of the Labor Code Private Attorneys General  
 Act of 2004, and in accordance with § 200.5 of the Labor Code.

25 39. On February 26, 2015, Plaintiff Erami caused to be served written  
 26 notice via certified mail to the Labor and Workforce Development Agency and to  
 27 Defendant JP Morgan Chase Bank, National Association of Plaintiff's intent to  
 28 amend the complaint to add a cause of action pursuant to Labor Code § 2699 *et*

1 *seq.* Included with the notice was the original complaint. Plaintiff did not receive  
 2 a response from the LWDA of Plaintiff's certified letter within the time proscribed  
 3 by Labor Code § 2699.3.

4 40. On February 1, 2016, Plaintiffs McGlynn and Sanchez caused to be  
 5 served written notice via certified mail to the Labor and Workforce Development  
 6 Agency and to Defendant JP Morgan Chase Bank, National Association of  
 7 Plaintiffs' intent to amend the complaint to add additional named plaintiffs  
 8 seeking relief pursuant to Labor Code § 2699 *et seq.* Included with the notice was  
 9 the proposed Second Amended Complaint. Plaintiffs did not receive a response  
 10 from the LWDA of Plaintiffs' certified letter within the time prescribed by Labor  
 11 Code § 2699.3.

### 12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, on their own behalf and on behalf of the  
 14 members of the class, pray for judgment as follows:

- 15 1. For an order certifying the proposed class;
- 16 2. For damages, penalties, restitution, attorney fees and injunctive relief;
- 17 and,
- 18 3. For prejudgment interest.

19  
 20 Dated: March 7, 2016

**WYNNE LAW FIRM**

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**JURY DEMAND**

Plaintiffs hereby request a jury trial on all issues so triable.

Dated: March 7, 2016

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